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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

FRENEL, VANEL

ART UNIT PAPER NUMBER

3626

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,153

Applicant(s)

BRACKETT, CHARLES C.

Examiner

Vanel Frenel

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Reconsideration filed on 11/26/04.

Claims 19-30 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al (6,208,974) in view of Brimm et al (5,077,666), for substantially the same reasons given in the previous Office Action. Further reasons appear hereinbelow.

(A) Claims 19-30 have not been amended and are rejected for the same reasons given in the previous Office Action.

Response to Arguments

4. Applicant's arguments filed on 11/26/04 with respect to claims 19 and 25 have been fully considered but they are not persuasive. Applicant's arguments will be addressed in the order they appear hereinbelow.

(A) At pages 1-5 of the response filed 11/26/04, Applicant's argues the followings:

(1) Independent claim 19 recites an imaging system comprising an exam list manager that facilitates the insertion of a new exam description into a list of exam descriptions in alphabetical order, the new description being entered in a displayed fillable field and insertion being activated by clicking on a displayed activation zone.

Applicant argues Fig.4 of Campbell has buttons that are not blank, and is silent concerning how the list of exam descriptions is generated and whether the list can be modified.

(2) Campbell does not teach using a graphical interface to modify a list of exam descriptions. Thus, the description of Figure 23 of Campbell says nothing about using a graphical interface to modify a list of exam descriptions. Moreover, none of the description of Figure 23 has any relevance to the list of exam descriptions shown in Fig.4. In short, Campbell does not disclose that the "Edit" button 2310 on the Wellness Plan Maintenance screen 2300 (Figure 23) can be used to edit the list of exam descriptions 410 on the Physical Examination screen 400 (Fig.4).

(3) The Office Action fails to suggest all the limitations of Applicant's claims because neither reference discloses an exam list manager (as recited in independent claim 19) that facilitates new exam descriptions being added in alphabetical order to a displayed list of exam descriptions by responding to inputs to an Edit field and to an activation zone displayed on the same screen.

(B) With respect to Applicant first argument, Examiner respectfully submits that Brimm suggests "It would be desirable if the tasks on such task list could be charted by a system user while viewing the task list and if the associated form (s) were automatically updated at the same time that each task on the task list is completed by the user. Additionally, it would be desirable to be able to chart directly from the chronological task list that a particular intervention or procedure has been performed without leaving the context of the chronological task list" which correspond to Applicant's claimed feature (See Brimm, Col.3, lines 35-44). In addition, Brimm suggests "using the input means, entering onto the second form an indication that such task has been performed, and (i) automatically modifying the list of all tasks to reflect that such task has been performed" which correspond to Applicant's claimed feature (See Brimm, Col.4, lines 45-49). Therefore, Applicant argument is not persuasive.

(C) With respect to Applicant second argument, Examiner respectfully submits that Campbell suggests "The diagnosis software uses the observations made during the medical exam to prepare a rule out list and prescribe a treatment protocol. Diagnosis software running on the server uses the observations to generate a list of abnormal observations and tentative diagnosis. The doctor can then select a tentative diagnosis by positioning the cursor over a diagnosis and selecting it. By selecting a tentative diagnosis, the user triggers the generation of a treatment protocol. This treatment protocol can then be integrated into future medical exam sessions. It is integrated

because procedures that need to be performed and observations that need to be made are identified in the graphical exam screens in follow-up visits. Thus, once a treatment protocol is selected, the system manages the administration of that protocol in future exam sessions” which correspond to Applicant’s claimed feature (See Campbell, Col.8, lines 3-17). Therefore, Applicant argument is not persuasive. In addition, Examiner respectfully suggests that Campbell discloses “ to change information about the plan, the user can click on the “edit button” 2310 and then make the desired changes. For example, the user can change the status of the wellness plan from tentative to canceled by selecting the “canceled” status from the Contract Status list box 2308 which can also be used as a means of editing or modifying a list of description that Applicant is referring to (See Campbell, Col.28, lines 22-29). Furthermore, Examiner points out that Campbell suggests “The specific display format of the user interface screens can vary as well which is also another way of modification (See Campbell, Col.31, lines 55-56).

Therefore, Applicant argument is not persuasive.

(D) With respect to Applicant third argument, Examiner respectfully submits that Campbell suggests “The physical exam buttons represent the top level in a hierarchy of physical exam screens. The physical exam is broken into the following areas: 1) Overall Condition 2) Coat and Skin 3) Ocular 4) Otic 5) Oral/Nasal 6) Respiratory 7) Cardiovascular 8) Abdominal 9) Urogenital 10) Perineal 11) Musculoskeletal 12) Neurological 13) Behavioral” which correspond to Applicant’s claimed feature (See Campbell, Col.13, lines 12-36). In addition, Examiner respectfully submits that Campbell

suggests "The therapy screen allows access to other screens such as the physical examination, the medical notes, diagnosis and ordering screens, via drop down menus, navigational controls, and user selection of therapy service items displayed on the screen. The therapy screen is accessible from other screens as well as via a drop down menu and navigational control buttons" which correspond to Applicant's claimed feature (See Campbell, Col.19, lines 6-11). Therefore, Applicant argument is not persuasive.

In response, all of the limitations which Applicant disputes as missing in the applied references, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Campbell and/or Brimm, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the prior Office Action, and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 703-305-4952. The examiner can normally be reached on Monday-Thursday from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

V.F
V.F

January 31, 2005


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